

APPEAL NUMBER  
2020-00017

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated January 10, 2020 where the ministry determined that the appellant was not eligible for the funding requested for the replacement of a wheelchair joystick and batteries including installation because:

1. these items were not required to address a life-threatening emergency but to effect long-term repairs to the wheel chair and so did not meet the requirements of EAPWDR, Section 69, and,
2. the appellant did not use a ministry approved supplier to provide and install the joy stick and batteries and therefore the ministry can not determine whether the equipment provided was the least expensive appropriate to the situation and thus does not meet the requirement of EAPWDR, Schedule C, section 3(1)(b)(iii).

### **PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Sections 57, 61.1 and 69  
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule C, sections 3 and 3.2

## PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration:

1. The appellant is designated as a person with disabilities (PWD), was transitioned to Medical Services Only (MSO) and is eligible to receive health supplements described in EAPWDR, Schedule 3, section 3 (medical equipment).
2. The ministry's latest assessment from an Occupational Therapist (OT) dated March 1, 2018 states the appellant is wheelchair bound with multiple medical conditions including pressure sores, rheumatoid arthritis, osteoarthritis, gastritis, intervertebral disc disorders, osteoporosis, fibromyalgia, COPD, chronic airways obstruction, obesity, deep vein thromboses, hyperthyroidism and septic right hip prosthesis following a total hip replacement with multiple surgical interventions.
3. On October 1, 2019 the appellant's wheelchair stopped and the distressed appellant made calls to seek repair services. The appellant reported calling "everywhere" and that a non-ministry contacted supplier was the only one able to help the appellant "right away". Based on the invoices submitted to the ministry dated Jan 2, 2020 and verbal reports from the appellant the ministry notes that the problem was the joystick which might have affected the battery.
4. On October 2 and October 3, 2019 temporary repairs and the supply of a rental manual wheelchair were made at a total cost of \$326.70, paid for by the appellant's sibling and the appellant using a credit card. The appellant requested the service company complete the repair. The estimated cost was \$1933.30 including replacement batteries, a replacement joystick, cable and installation labour.
5. On October 9, 2019 the appellant contacted the ministry by phone and requested reimbursement noting:
  - The appellant relied completely on the power wheelchair and could not even go to the bathroom without it.
  - The appellant was on a wait list for assisted living.
  - The wheelchair broke the week before and the appellant panicked.
  - The appellant called everywhere and there was only one company who could come right away.
  - The service company charged the appellant \$1600 as a deposit on the appellant's credit card which did not include any repairs.
  - The wheelchair was temporarily fixed but was unsafe and could stop at anytime. The appellant therefore asked the company to have the wheel chair fixed.
  - The appellant was aware that the repair company was not the ministry contacted supplier but the appellant was desperate.
6. On October 21, 2019 the appellant paid the balance owing to the service supplier by credit card from a sibling.
7. On October 29, 2019 the ministry denied the appellant's request based on EAPWDR Schedule C, section 3(1)(b)(i) and 3(1)(b)(ii) as follows:
  - This request is for reimbursement of funds for repairs to a power wheelchair which was not preauthorized by the ministry.
  - The appellant is requesting reimbursement for a deposit to a non-contracted supplier.
  - The ministry is satisfied that there were other resources available to the family unit to pay for the repairs.
8. On December 2, 2019 the appellant submitted a signed request for reconsideration together with an extension request to January 2, 2020 to provide additional information received late on January 2, from the appellant's advocate which noted the following:
  - The appellant is entitled to assistance under EAPWDR, Section 69 for the health supplements listed in sections 2(1)(a) and (F) and 3 of Schedule C if that health supplement is provided for a person in the family unit who is not otherwise eligible for the health supplement under the regulation, if the ministry is satisfied the person faces a direct and life threatening need and there are no resources available to the person's family unit with which to meet the need.
  - The advocate submits that the appellant is utterly reliant on the use of the power wheelchair and if it is non-functioning she is under threat of her personal safety and health. To evidence this the appellant is submitting documentation from her medical professionals (ministry notes here this was not provided with the request for reconsideration).
  - With respect to the issue of resources available to the appellant the advocate noted that the use of a credit card is debt and not considered a suitable resource.

- The appellant, under threat of her personal health and safety, was required to seek immediate repairs and requests reimbursement for the total cost of repairs \$2284.95.
- Attached to the advocate's submission was documentation as follows:
  - Receipt from the service provider dated October 1, 2019 for \$88.50 paid by credit card described as a service call to troubleshoot power chair.
  - Receipt and attached invoice from the service provider dated October 1, 2019 for \$104.00 paid by credit card described as an Airgo ProCare IC with detachable arms elevated leg rests and cleaning of rental equipment.
  - Receipt and attached invoice from the service provider dated October 2, 2019 for \$95.00 paid by credit card described as to assess repair of Invacare SP power wheel chair and labour to solder old joystick together with no warranty.
  - Receipt and attached invoice from the service provider dated October 21, 2019 for \$397.45 paid by credit card described
  - Receipt and invoice attached from the service provider dated October 2, 2019 for \$1600.00 paid by credit card by a sibling which is described as request for the following repairs on the wheelchair:

Item	Cost
Battery 12V 50.6amp	709.90
Joystick	980.95
Cable	99.95
Labour to trouble shoot and Install	142.50
Shipping & Handling – APPROXIMATE SHIPPING COSTS WILL APPLY	00.00
Deposit received October 02, 2019 by Credit Card	00.00
GST on sales 5%	00.00
<b>TOTAL:</b>	<b>\$1,933.30</b>
<b>PAYMENTS</b>	<b>\$1600.00</b>
<b>BALANCE DUE</b>	<b>333.30</b>

9. On January 10, 2020 the ministry completed their reconsideration which noted the following:
- General eligibility requirements for the provision of medical equipment and services are set out in EAPWDR, Schedule C, section 3 which specifies that:
    - EAPWDR, Schedule C, section 3(1)(b) states the ministry must provide the least expensive appropriate medical device described in subsection 3.2 and 3.3 if:
      - (b) all of the following requirements are met:
        - the family unit has received the pre-authorization of the minister for the medical equipment or device requested;
        - there are no resources available to the family unit to pay the cost of or obtain the medical equipment or device;
        - the medical equipment or device is the least expensive appropriate medical equipment or device.
    - EAPWDR Schedule C, section 3(2) sets out that in addition the family unit must provide the ministry with one or both of the following:
      - a prescription of a medical practitioner or nurse practitioner for the medical equipment or device;
      - an assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device.
    - EAPWDR, Schedule C, section 3(3) states that subject to 3(6) the ministry may provide as a health supplement a replacement of medical equipment or medical device, previously provided by the ministry, that is damaged, worn out or not functioning if;
      - it is more economical to replace than to repair the medical equipment or device previously provided by the minister, and
      - the period of time, if any, set out in sections 3.1 to 3.12 of this Schedule, as applicable, for the purposes of this paragraph, has passed.
    - EAPWDR, Schedule C, section 3(6) states that the ministry may not provide a replacement of medical equipment or a medical device under subsection (4) or (5) if the ministry considers the medical equipment or device was damaged through misuse.

- Specific eligibility requirements for the provision of wheelchairs and seating are set out in EAPWDR, Schedule C, sections 3.2 and 3.3:
  - EAPWDR, Schedule C, sections 3.2(1) sets out that a wheel chair is a health supplement for the purposes of Schedule C, section (3) if the ministry is satisfied that it is medically essential to achieve or maintain basic mobility. Subsection 3.2(2) sets out that the period to replacement of a wheelchair is 5 years after the ministry provided the item being replaced.
  - EAPWDR, Schedule C, sections 3.3(1) sets out that a wheelchair seating system is a health supplement for purposes of Schedule C, section 3 if the ministry is satisfied that the item is medically essential to achieve or maintain basic mobility. Subsection 3.2(2) sets out that the period to replacement of a wheelchair seating system is 2 years after the ministry provided the item being replaced.
- The ministry reconsideration decision concluded that the appellant's request did not meet the requirements of EAPWDR, Schedule C, section 3(1)(b)(i) as the appellant did not obtain pre-authorization from the ministry and did not contact the ministry on October 2, 2019 before paying \$1600.00 in advance. The appellant did not contact the ministry until October 9, 2019. However, the ministry notes an exception to this policy: "Note: the ministry will not accept payment responsibility, **except in cases of a life-threatening emergency**, for medical equipment purchased without prior written approval". The ministry upon reconsideration has decided to reimburse those expenses incurred to address a life-threatening emergency as existed on October 1, 2019 as follows:

• Item	• Cost
• Call out	• 88.50
• Manual Wheelchair (rental and cleaning)	• 104.00
• Labour – Solder Old Joystick Together	• 95.00
• Labour – October 03 – Repair control board and Power Harness	• 37.95
• GST on sales	• 1.25
• TOTAL:	• 326.70

- The ministry has denied the appellant's request for reimbursement of monies paid in advance for a replacement joystick, batteries and installation charges as these items were not required to address a life-threatening emergency. The appellant reported to the ministry on October 9, 2019 that the wheelchair had been temporarily fixed with tape but that it was unsafe and it could stop anytime. However, the appellant had already paid in advance for a replacement joystick and gel battery. The ministry finds that the need for immediate intervention was addressed by the temporary repairs completed on October 1 to 3, 2019. The ministry states here that the appellant after receiving a rental wheelchair and temporary repairs was in a position to contact the ministry and ministry contracted supplier in the appellant's area for an assessment and expedited approval of the equipment necessary to effect long term repairs. Accordingly, the appellant's request for reimbursement of a joystick and batteries including installation at \$1,958.25 does not meet the requirement of EAPWDR, Schedule C, section 3(1)(b)(i) and is denied.
- The ministry reconsideration decision concluded that the request does not meet the requirements of EAPWDR Schedule C, section 3(1)(b)(iii) noting that the ministry is unable to determine whether the repairs were the least expensive appropriate medical equipment or device as required. The ministry notes here that a ministry approved contracted supplier would not have requested payment in advance and the ministry has no way of determining whether the least expensive options appropriate were obtained. The ministry then goes on to describe the parameters set out for services provided by contracted medical service providers in the ministry's policy and procedure manual which include a discount. The ministry also cites circumstances in the service history of the appellant's wheelchair where the legislated procedures were followed resulting in cost savings.
- The ministry reconsideration decision also concluded that the request does not meet the requirements of EAPWDR Section 69 which allows the ministry to provide any health supplement set out in Schedule C, sections 2(1)(a) (medical supplies), and (f) (transportation) and 3 (medical equipment and devices) for which there is no eligibility under the regulation. The ministry concludes here that, as the appellant is

eligible to receive health supplements set out in Section 3, there is no need for the appellant to access the request under Section 69.

- The ministry reconsideration decision concluded that the request does not meet the requirements of EAPWDR Section 57(3) for a crisis supplement as that provision states that a crisis supplement is not available to obtain a supplement described in EAPWDR Schedule C or for any other health care goods or service.
- The ministry summarized their conclusions as follows:
  - The appellant did not obtain pre-authorization from the ministry for the emergency repairs and wheelchair rental provided on October 1 to October 3, 2019 and therefore the request does not meet the requirement of EAPWDR, Schedule C, section 3(1)(b)(i). However, the ministry concludes that the requirements of EAPWDR Section 69 are met as a life threatening need as the repairs and rentals were needed to re-establish mobility.
  - The appellant's request for a joystick, batteries and installation were required to effect long term repairs to the wheel chair and do not qualify as a life-threatening need under Section 69.
  - The appellant did not use a ministry contracted supplier to provide the joystick, battery and installation paid for in advance and so the ministry was not able to determine whether the least cost appropriate was selected and therefore the request fails to meet the requirement of EAPWDR Schedule C, section 3(1)(b)(iii).

### Notice of Appeal

On January 20, 2020, the appellant signed a Notice of Appeal in which the appellant noted that when this all happened the only available resource was the non-ministry contracted supplier who required that the advance deposits be given as parts were needed to be ordered and prepaid and the appellant understood that a refund would not be forthcoming if the appellant then went to another vendor.

### Hearing

The panel conducted an oral hearing on October 27, 2019 as requested by the appellant. In attendance at the hearing were the panel, ministry representative, the appellant and a friend of the appellant attending the physical needs of the appellant.

In accordance with section 22(4) of the Employment and Assistance Act, the panel considered the admissibility of two pieces of information submitted at the hearing by the appellant consisting of a letter of support from the appellant's sister and a note from the appellant. The panel determined that the ministry had no objection to the entering of this information into evidence. The panel notes this information largely consists of a repetition of information previously entered into the record and so consisted of information directly related to the matter at hand and so was admissible.

The appellant's and sibling's notes submitted at the hearing repeated and elaborated upon earlier written arguments:

1. The appellant wanted it to be known that when this occurred the appellant had no choice but to pay the money in advance or the repairman would not do any work on the appellant's wheel chair, upon which the appellant is absolutely dependant because of the appellant's various illnesses and physical disabilities.
2. The appellant's sibling notes that the appellant was essentially homeless and came to live with the sibling while awaiting assisted living accommodation. The sibling notes the appellant is unable to walk due to major complications while undergoing hip surgery resulting in 12 subsequent surgeries and removal of the hip bone. The appellant also has severe COPD further limiting mobility. On the day of the incident, the failure of the wheel chair occurred while the appellant was on the way to the rest room. The note also indicates the sibling too has severe rheumatoid arthritis and so could not help the appellant. The appellant phoned "everyone" on the phone that services wheelchairs and could only reach one service provider who would not come unless the appellant provided a credit card and paid for the service call. The service representative attended the sibling's residence, couldn't fix the wheelchair and the sibling had to bring the wheelchair to the store. The representative later phoned and stated the battery needed replacing and that before he would do anything, he needed the appellant's credit card for a deposit which turned out to be almost the entire cost of repairs.

At the hearing the appellant offered the following:

1. The appellant noted having no option when the incident occurred while on the way to the bathroom. The appellant is helpless without a wheelchair as a result of her illnesses and disabilities. The appellant was essentially homeless and staying with a sibling while waiting for assisted living accommodation.
2. The appellant phoned a number of places and only one service representative responded and that representative demanded a credit card to pay for a service call up front. The representative needed to remove the wheelchair to the shop to diagnose the problem which subsequently identified the motherboard as the source of the problem affecting the battery as well. The service representative left a manual wheelchair which, due to the physical limitations of both the appellant and the sibling proved to be useless. Following initial diagnosis, the service representative demanded a \$1600.00 deposit before they could order parts and do the repairs. The appellant has a \$2000.00 limit used only for emergencies and the appellant felt there was no option but to proceed outside of going to the hospital. The call to the ministry supplier was returned and the appellant was told the mechanic as on vacation for a week. The appellant told the service representative that the appellant could not wait for parts and it was agreed that temporary repairs would be made while new parts were awaited. The temporary repairs failed twice more before new parts were installed.

The appellant responded to questions at the hearing as follows:

1. The ministry asked the appellant whether the appellant had contacted the ministry at all before their first recorded call on October 9, 2019 when the appellant requested reimbursement. The appellant responded that there was no contact. A call was attempted but the appellant was put on hold and did not wait. Calls were made to other service providers and the appellant's doctor.
2. A panel member asked the appellant whether the manual wheelchair allowed the appellant to function. The appellant responded that it did not as the appellant and the sibling both lacked the physical ability to use it.
3. A panel member requested clarification on the appellant's attempt's to call for help when the wheelchair failed. The appellant stated that all wheelchair service providers in the phone book were contacted and only one service provider agreed to attend immediately. The ministry authorized service provider subsequently indicated a week delay was required. Responding to further questioning concerning the age of the wheelchair and the nature of it's acquisition, the appellant responded it was 5 years old and had been provided directly to the appellant by the ministry while in hospital.
4. In response to a question from a panel member concerning the appellant's mental condition when the failure occurred, the appellant stated she was very stressed, was essentially homeless and was unable to do anything with a failed wheelchair.
5. In response to a follow up question from a panel member, the appellant stated that the incident occurred at 11:00 AM on Monday October 1, 2019 and stated again that contact with the ministry was not made before October 9, 2019.

The ministry, in their submission to the hearing, confirmed the written consideration and:

1. Indicated that the essential point of the ministry was that the appellant was required by the legislation to provide a request before making any repairs or purchases in order to ensure the ministry was given the opportunity demanded by the legislation to ensure the most effective purchase and or repair decision was made. Because the appellant did not contact the ministry at all before the call to ask for reimbursement on October 9, 2020, the ministry were denied this. Having failed to do this, the ministry must apply the legislation and deny the request. However, in this instance the ministry worker noted the appellant's circumstance were indeed dire and noted that in consideration of the circumstances, the ministry determined that a life threatening need existed and agreed to pay the amount incurred in the initial repairs amounting to \$326.70. Subsequent to this initial repair, the ministry contends the appellant was able to and therefore was required to contact the ministry and explore the options.
2. In response to a question from a panel member, the ministry representative stated that while the appellant was faced with a hold when she attempted a call, the appellant's wait would typically have not been long and in the ministry workers experience would have resulted in a response that responded to the level of emergency. Further questioning resulted in the ministry worker indicating a response time in hours could result and not necessarily days or weeks.

## PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry's decision to deny the applicant's request for funding for a wheelchair joystick, batteries and installation at a cost of \$1,988.2500 is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

### Ministry Position

The ministry's position is that the appellant's request for funding of the emergency repair of the appellant's wheelchair, rental of temporary wheelchair and replacement of a wheelchair joystick, batteries and installation can be considered as two separate decisions on the part of the appellant:

1. The ministry reconsideration decision concluded that the appellant's request did not meet the requirements of EAPWDR, Schedule C, section 3(1)(b)(i) as the appellant did not obtain pre-authorization from the ministry and did not contact the ministry on October 2, 2019 before paying \$1600.00 in advance. The appellant did not contact the ministry until October 9, 2019. However, the ministry notes an exception to this policy in the legislation: "Note: the ministry will not accept payment responsibility, **except in cases of a life-threatening emergency**, for medical equipment purchased without prior written approval". The ministry upon reconsideration considered the circumstances following the failure of the wheelchair and agreed to reimburse those expenses they deemed were incurred to address a life-threatening emergency as existed on October 1, 2019 for \$326.70
2. The ministry has denied the appellant's request for reimbursement of monies paid in advance for a replacement joystick, batteries and installation charges as these items were not required to address a life-threatening emergency but represented a long term repair. The ministry states in their submission that the appellant after receiving a rental wheelchair and temporary repairs was in a position to contact the ministry and ministry contracted supplier in the appellant's area for an assessment and expedited approval of the equipment necessary to effect long term repairs. The appellant's request for a joystick, batteries and installation does not meet the requirements of EAPWDR, Section 69.
3. The ministry reconsideration decision concluded that the request does not meet the requirements of EAPWDR Section 57(3) for a crisis supplement as that provision states that a crisis supplement is not available to obtain a supplement described in EAPWDR Schedule C or for any other health care goods or service.
4. The appellant did not use a ministry contracted supplier to provide the joystick, battery and installation paid for in advance and so the ministry was not able to determine whether the least cost appropriate was selected and therefore the request fails to meet the requirement of EAPWDR Schedule C, section 3(1)(b)(iii).

### Appellant Position

The appellant's position is:

1. The appellant's position has been commented on by an advocate who in a submission dated January 21, 2020 stated their position as legal advocate as follows:
  - The appellant is entitled to assistance under EAPWDR, Section 69 for the health supplements listed in sections 2(1)(a) and (F) and 3 of Schedule C if that health supplement is provided for a person in the family unit who is not otherwise eligible for the health supplement under the regulation, if the ministry is satisfied the person faces a direct and life threatening need and there are no resources available to the person's family unit with which to meet the need.
  - The advocate submits that the appellant is utterly reliant on the use of the power wheelchair and if it is non-functioning she is under threat of her personal safety and health. To evidence this the appellant is submitting documentation from her medical professionals (ministry notes here this was not provided with the request for reconsideration).
  - With respect to the issue of resources available to the appellant the advocate noted that the use of a credit card is debt and not considered a suitable resource.
  - The appellant, under threat of her personal health and safety was required to seek immediate repairs and requests reimbursement for the total cost of repairs \$2284.95.
2. The appellant in the Notice of Appeal noted that when this all happened the only available resource was the non-ministry contracted supplier who required that the advance deposits be given as parts were needed to be

ordered and prepaid and the appellant understood that a refund would not be forthcoming if the appellant then went to another vendor. This information adds to the appellant's self reported facts noted above.

### **Panel Decision**

The ministry reconsideration decision concludes the appellant's request did not meet the requirements of EAPWDR, Schedule C, section 3(1)(b)(i), as the appellant did not obtain the required pre-authorization from the ministry and did not contact the ministry on October 2, 2019 before payment of the \$1600.00 deposit. The appellant attempted to call but did not contact the ministry until October 9, 2019. The panel finds this factual evidence, which is not in dispute, clearly indicates a denial is warranted based on EAPWDR, Schedule C, section 3(1)(b)(i). The ministry was denied their legislated right to be involved in the repair/purchase decision.

The panel agrees with the ministry that the request does not meet the requirements of EAPWDR Section 57(3) for a crisis supplement which states that a crisis supplement is not available to obtain a supplement described in EAPWDR Schedule C or for any other health care goods or service. The subject of the request is clearly described as a health care service and is described in EAPWDR Schedule C.

The panel agrees with the ministry that the appellant did not use a ministry contracted supplier to provide the joystick, battery and installation paid for in advance and so the panel agrees the ministry was not able to determine whether the least cost appropriate supplier was selected and, therefore, the request fails to meet the requirements of EAPWDR Schedule C, section 3(1)(b)(iii).

However, the panel notes that the ministry reconsideration decision has also determined the appellant's circumstance immediately following the breakdown rise to the level of a life threatening need when considering the request for \$362.78 in expenses for emergency wheelchair repairs together with the wheelchair rental. Therefore, the reconsideration decision has approved the request under EAPWDR Section 69. The panel notes that the appellant's circumstances immediately after the wheelchair failed were affected by the appellant's disabilities and there was heightened uncertainty. The panel therefore agrees that the ministry determination was a reasonable application of EAPWDR Section 69.

The panel is then left to consider the question of whether it is reasonable for the ministry to conclude that EAPWDR Section 69 (life threatening need) does not apply to the funding request for the joystick, battery and installation. The ministry clearly feels that once the emergency repairs were completed the life threatening situation ended with it and it was the obligation of the appellant to contact the ministry to consider the long term repairs to the wheel chair. The appellant describes the situation of the repairs as one event that was life-threatening throughout. The panel notes that once the appellant had the emergency repairs completed there was at least some normalcy achieved and the appellant was occupied, with the assistance of the sibling, in seeing the replacement of the joystick and batteries completed. Much of the appellant's concern after the initial repair appears to the panel to be the coercive behaviour on the part of the service representative and the financial concerns surrounding the deposit. While these were real to the appellant, the panel does not feel it is reasonable to consider these circumstances as rising to the status of a life threatening need such as might reasonably be inferred when the wheelchair initially failed to operate. The panel recognizes the emergency repairs were not perfect however, the appellant was able to function somewhat effectively with the assistance of the sibling and, in the panel's view, was physically able to contact the ministry to discuss the replacement of the components as was the appellant's obligation under the legislation. The panel concludes that in considering the application of the legislation in the appellant's circumstances, the appellant did not meet the requirements of EAPWDR Section 69 for the balance of the repairs for the joystick, battery and installation. In the absence of a determination that Section 69 applies, the panel agrees that the appellant did not meet the requirements of EAPWDR, Schedule C, section 3(1)(b)(i) as well as EAPWDR Schedule C, section 3(1)(b)(iii) and the request also does not qualify as a crisis supplement.

### **Conclusion**

The panel confirms the ministry reconsideration as it was a reasonable application of the legislation in the appellant's circumstances. The appellant is not successful upon appeal.



As an aid in the analysis and to provide some clarity, the panel has appended a copy of the ministry's reconstruction of the invoices submitted to the ministry on January 2, 2020 by the appellant:

<b>Date/Time of Receipt</b>	<b>Item Description</b>	<b>Cost</b>
<b>October 1, 2019</b>		
Oct-1 -2019 12:55PM Visa	Appellant requested Service Call out to Troubleshoot problem with Invacare Power Chair	88.50
Oct-01-2019 12:47 PM Mastercard	(Obscured) the following for sibling of the appellant (Obscured) X 18" Airgo ProCare IC w/Detachable Desk Arms, Elevated leg rests (\$88.50) Cleaning of Rental Equipment Large (\$\$15.50)	104.00
<b>October 2, 2019</b>		
Oct-02-2019 13:10PM Visa	Appellant has requested to have Invacare TDX SP Power Wheelchair assessed for repair Labour: Solder Old Joystick Together (only a possibility)	95.00
Oct-02-2019  <b>Receipt attached to this invoice dated October 21/2019 14:06PM Visa - \$397.45 This represents the final invoice for these goods and services. Labour to repair control board and power harness as well as GST considered emergency Repairs</b>	Appellant has requested the following repairs on the Invacare TDX SP Power Chair  Battery 12V 50.6amp (2@\$354.95) Joystick Cable Labour: To Trouble Shoot and Install Shipping and Handling  Labour October 03, 2019 Repair on Control Board and Power Harness Deposit received October 02, 2019 by Visa Joystick Cable Labour: To Trouble Shoot and Install Shipping and Handling	  709.90 980.95 99.95 142.50 24.95  37.95  1.25
	<b>Total</b>	<b>\$1997.45</b>

## Legislation

### Employment and Assistance for Persons with Disabilities Regulation

#### Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

- (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and
  - (b) the minister considers that failure to meet the expense or obtain the item will result in
    - (i) imminent danger to the physical health of any person in the family unit, or
    - (ii) removal of a child under the Child, Family and Community Service Act.
- (2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- (3) A crisis supplement may not be provided for the purpose of obtaining
- (a) a supplement described in Schedule C, or
  - (b) any other health care goods or services.

#### Part 5: Division 4 – Health Supplements

##### Definitions 61.01 In this Division:

"continued person" means (a) a main continued person under 61.1 (1), or (b) a dependent continued person under section 61.1 (2);

##### Access to medical services only

61.1 (1) Subject to subsection (4), a person is a main continued person if

- (a) the person was:
    - (i) part of a family unit identified in subsection (3) on the date the family unit ceased to be eligible for disability assistance, and,
    - (ii) a person with disabilities on that date,
  - (b) the person has not, since that date, been part of a family unit in receipt of income assistance, hardship assistance or disability assistance, and,
  - (c) in the case that the family unit referred to in paragraph (a) (i) was a family unit identified in subsection (3) (g), the agreement referred to in subsection (3) (g) is in force.
- (2) Subject to subsection (6), a person is a dependent continued person if:
- (a) the person was a dependant of a main continued person under subsection (1) on the main continued person's continuation date and is currently a dependant of the main continued person, or,
  - (b) the person is a dependant of a person who is a main continued person under subsection (1) as a result of having been part of a family unit identified in subsection (3) (b), (c), (d), (e), (f) or (g).
- (3) A family unit is identified for the purposes of subsection (1):
- (a) if the family unit, while in receipt of disability assistance, ceases to be eligible for disability assistance,
  - (a) on a date the family unit includes a person aged 65 or older,
  - (b) as a result of a person in the family unit receiving an award of compensation under the Criminal Injury Compensation Act or an award of benefits under the Crime Victim Assistance Act,
  - (c) as a result of a person in the family unit receiving a payment under the settlement agreement approved by the Supreme Court in Action No. S50808, Kelowna Registry,
  - (d) as a result of a person in the family unit receiving employment income,

- (e) as a result of a person in the family unit receiving a pension or other payment under the Canada Pension Plan (Canada),
- (f) as a result of a person in the family unit receiving money or value that is maintenance under a maintenance order or a maintenance agreement or other agreement, or,
- (g) as a result of a person in the family unit receiving financial assistance provided through an agreement under section 12.3 of the Child, Family and Community Service Act.
- (4) Subject to subsection (5), a person's status as a main continued person under subsection (1) is suspended for a calendar month if:
- (a) the person fails to meet an applicable income test under subsection (7) in the calendar month and in each of the immediately preceding 12 calendar months, and,
- (b) the person's continuation date is before those immediately preceding 12 calendar months,
- (5) Subsection (4) does not apply to a person who is a main continued person under subsection (1) as a result of having been part of a family unit described in subsection (3) (c) or (g).
- (6) A person's status as a dependent continued person under subsection (2) of a main continued person under subsection (1) is suspended if the main continued person's status is suspended under subsection (4).
- (7) For the purposes of subsection (4), (a) a person who is a main continued person under subsection (1) as a result of having been part of a family unit identified in subsection (3) (a), (b), (d) or (f) meets the income test for a calendar month if,
- (i) in the case that the main continued person is aged 65 or older or the main continued person's family unit includes a person aged 65 or older, the main continued person or another person in the family unit is in receipt of a qualifying federal benefit, and,
- (ii) in the case that neither the main continued person nor another person in the main continued person's family unit is aged 65 or older, the adjusted net income of the main continued person does not exceed the amount set out in section 11 (3) of the Medical and Health Care Services Regulation, and (b) a person who is a main continued person under subsection (1) as a result of having been part of a family unit identified in subsection (3) (e) meets the income test for a calendar month if,
- (i) in the case that the main continued person is aged 65 or older or the main continued person's family unit includes a person aged 65 or older, the main continued person or another person in the family unit is in receipt of a qualifying federal benefit, and,
- (ii) in the case that neither the main continued person nor another person in the main continued person's family unit is aged 65 or older, the main continued person or another person in the family unit receives a pension or other payment under the Canada Pension Plan (Canada).
- (7.1) For the purposes of subsection (7) (a) (ii),
- (a) "adjusted net income" has the same meaning as in section 7.6 of the Medical and Health Care Services Regulation, and,
- (b) a reference in section 7.6 of the Medical and Health Care Services Regulation to an "eligible person" is to be read as a reference to the main continued person.
- (8) Despite this Division, a person is not eligible, as a main continued person under subsection (1), to receive a health supplement under this Division for the calendar month in which the person's continuation date occurs.
- (9) Despite this Division, a person is not eligible, as dependent continued person under subsection (2) of a main continued person under subsection (1), to receive a health supplement under this Division for a calendar month in which the main continued person's continuation date occurs.

### **General health supplements**

62. The minister may provide any health supplement set out in section 2 [general health supplements] or 3 [medical equipment and devices] of Schedule C to or for:
- (a) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or,
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

### **Health supplement for persons facing direct and imminent life threatening health need.**

- 69 (1) The minister may provide to a family unit any health supplement set out in sections 2 (1) (a) and (f) [general health supplements] and 3 [medical equipment and devices] of Schedule C, if the health supplement is provided to or for a person in the family unit who is otherwise not eligible for the health supplement under this regulation, and if the minister is satisfied that:

- (a) the person faces a direct and imminent life threatening need and there are no resources available to the person's family unit with which to meet that need,
- (b) the health supplement is necessary to meet that need.

## **Schedule C Health Supplements**

### **Medical equipment and devices**

3. (1) Subject to subsections (2) to (5) of this section, the medical equipment and devices described in sections 3.1 to 3.12 of this Schedule are the health supplements that may be provided by the minister if:

(a) the supplements are provided to a family unit that is eligible under section 62 [general health supplements] of this regulation, and,

(b) all of the following requirements are met:

- (i) the family unit has received the pre-authorization of the minister for the medical equipment or device requested;
- (ii) there are no resources available to the family unit to pay the cost of or obtain the medical equipment or device;
- (iii) the medical equipment or device is the least expensive appropriate medical equipment or device.

(2) For medical equipment or devices referred to in sections 3.1 to 3.8 or section 3.12, in addition to the requirements in those sections and subsection (1) of this section, the family unit must provide to the minister one or both of the following, as requested by the minister:

- (a) a prescription of a medical practitioner or nurse practitioner for the medical equipment or device;
- (b) an assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device.

(2.1) For medical equipment or devices referred to in section 3.9 (1) (b) to (g), in addition to the requirements in that section and subsection (1) of this section, the family unit must provide to the minister one or both of the following, as requested by the minister:

- (a) a prescription of a medical practitioner or nurse practitioner for the medical equipment or device;
- (b) an assessment by a respiratory therapist, occupational therapist or physical therapist confirming the medical need for the medical equipment or device.

(3) Subject to subsection (6), the minister may provide as a health supplement a replacement of medical equipment or a medical device, previously provided by the minister under this section, that is damaged, worn out or not functioning if:

- (a) it is more economical to replace than to repair the medical equipment or device previously provided by the minister, and,
- (b) the period of time, if any, set out in sections 3.1 to 3.12 of this Schedule, as applicable, for the purposes of this paragraph, has passed.

(4) Subject to subsection (6), the minister may provide as a health supplement repairs of medical equipment or a medical device that was previously provided by the minister if it is more economical to repair the medical equipment or device than to replace it.

(5) Subject to subsection (6), the minister may provide as a health supplement repairs of medical equipment or a medical device that was not previously provided by the minister if:

- (a) at the time of the repairs the requirements in this section and sections 3.1 to 3.12 of this Schedule, as applicable, are met in respect of the medical equipment or device being repaired, and,
- (b) it is more economical to repair the medical equipment or device than to replace it.

(6) The minister may not provide a replacement of medical equipment or a medical device under subsection (3) or repairs of medical equipment or a medical device under subsection (4) or (5) if the minister considers that the medical equipment or device was damaged through misuse.

APPEAL NUMBER  
2020-00017

**PART G – ORDER**

THE PANEL DECISION IS: (Check one)       UNANIMOUS       BY MAJORITY

THE PANEL       CONFIRMS THE MINISTRY DECISION       RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister  
for a decision as to amount?       Yes       No

**LEGISLATIVE AUTHORITY FOR THE DECISION:**

*Employment and Assistance Act*

Section 24(1)(a)  or Section 24(1)(b)

and

Section 24(2)(a)  or Section 24(2)(b)

**PART H – SIGNATURES**

PRINT NAME

Keith Lacroix

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/02/27

PRINT NAME

Charlie Schellinck

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/02/28

PRINT NAME

Carman Thompson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/02/29